

## REMARKS

By the present amendment, claims 1, 10, 13, 16, and 19 are amended to clarify that the lateral offset openings are diametrically disposed on opposing sides of the hollow shaft and substantially parallel. Claim 21 has been canceled and the subject matter incorporated into claim 1. This leaves claims 1-20 pending in the application, with claims 1, 10, 16 and 19 being independent.

The prior art rejections of claims 1-20 are respectfully traversed. White fails to teach a light fixture foundation including cableway openings having axes that are (1) laterally spaced on diametrically opposing sides of the hollow shaft, (2) substantially parallel, and (3) non-coaxial with respect to one another, as now recited in each of the claims 1-15. White also fails to teach a method of installing a light fixture foundation including the step of inserting first and second cableways into laterally offset openings of the foundation so that the cableways do not interfere with one another, as recited in claims 16-19. Thus, these claims are patentably distinguishable over the cited prior art.

In accordance with 37 CFR 1.116, Applicants respectfully request entry and consideration of the foregoing amendments as they remove issues for appeal and place the application in condition for allowance. New issues are not raised by this Amendment, since the independent claims have been amended to incorporate subject matter of claims 13 and 21, previously considered during prosecution.

### Claim Rejections – 35 U.S.C. 102

Claims 1-7, 10-11, 13-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,156,454 to White. White is cited for a light fixture foundation including a hollow shaft 12, cableway openings 14 (0°, 90°, 180° and 270°) capable of supporting electrical wiring 40, and a

support member 22 for supporting a lighting assembly coupled to the shaft and having a passageway 26 in communication with the shaft.

Although, applicants' disagree with the above interpretation of White in the previous Office Actions, independent claims 1 and 10 are amended to clarify that the lateral offset openings are disposed on diametrically opposing sides of the hollow shaft and the passageway axes are parallel, not perpendicular. Therefore, claims 1 and 10 unequivocally require the openings to be laterally offset on opposite sides (substantially about 180° apart) of the hollow shaft and substantially parallel to one another.

Anticipation requires that every limitation of a claim must identically appear in a prior art reference. See Gechter v. Davidson, 43 U.S.P.Q.2d 1030, 1032 (Fed. Cir. 1997). Absence from the prior art reference of any claimed element negates anticipation. See Rowe v. Dror, U.S.P.Q.2d 1550, 1553 (Fed. Cir. 1997).

Cableway openings 14 of White do not have laterally spaced, parallel, and non-coaxial axes on diametrically opposing sides of the hollow shaft, as recited in both independent claims 1 and 10. Therefore, White cannot anticipate claims 1 and 10. Instead, the cableway openings 14 of White are angularly disposed on the shaft 12 at 0°, 90°, 180° and 270°, respectively, as seen in Figs. 1 and 2. Although the axes defined by openings 14 are perpendicular to the longitudinal axis of shaft 12, no two axes are laterally spaced, parallel, and non-coaxial with respect to one another on opposite sides of the hollow shaft. For example, openings 14 disposed at 0° and 90°, respectively, do not define laterally spaced, parallel axes since their respective axes are perpendicular to one another and thus cross one another (as seen in Fig. 2 of White). Moreover, the openings are not diametrically disposed. Additionally, openings 14, disposed at 0° and 270°, respectively, are coaxially aligned and are positioned directly opposite one another, as seen in Fig. 2 of White. Thus, the axes defined

by openings 14 disposed at 0° and 270°, respectively, are coaxial and not spaced from one another. In contrast, Applicants openings are non-coaxial and laterally spaced from one another, as recited in claims 1 and 10. Axes such as those in White which cross one another are not laterally offset.

In view of the above, White cannot anticipate claims 1-7, 10-11, 13-14 since laterally spaced, parallel, non-coaxial, diametrically disposed cableway openings do not identically appear in White. Therefore, the rejection under 35 U.S.C. 102(b) should be withdrawn and the claims allowed.

Dependent claims 2-9 and 11-15 are also allowable for the same reasons. Moreover, these claims recite additional features distinguishable from the prior art. For example, claim 2 recites that first and second cableways are received in the first and second openings, claims 4 and 14 recite that the cableways are co-planar, and claims 5 and 14 recite that the cableways are at the same vertical level with respect to the shaft. Also, claim 8 recites that the support member is a base plate having a width larger than the shaft diameter and includes first and second notches for indicating the location of the cableways. Claims 9 and 15 recite an anchor for supporting the shaft and support member. Claim 11 recites that the light support includes a passageway in communication with the passageway of the support member.

#### Claim Rejections – 35 U.S.C. 103

Claims 1-21 stand rejected under 35 U.S.C. 103 as being unpatentable over Hubbell Power System, Inc (Chance, Bulletin 2-9705) in view of White. Hubbell Power Systems is cited for teaching the claimed invention, except for cableway openings that are substantially perpendicular to the longitudinal axis of the hollow shaft with the openings being at the same level and laterally spaced from each other. White is cited for teaching a lighting fixture foundation including cableway

openings 14 extending substantially perpendicular to the hollow shaft and laterally spaced from each other to prevent the cableways from interfering with one another. The Office Action suggests that it would have been obvious to modify the Hubbell Power Systems foundation in view of the teachings of White so that the openings receive wiring without the wires interfering with each other.

Although, applicants' disagree with the above interpretation of White in the previous Office Actions, independent claims 1, 10, 16, and 19 are amended to clarify that the lateral offset openings are disposed on diametrically opposing sides of the hollow shaft. Therefore, claims 1 and 10 unequivocally require the openings to be laterally offset on opposite sides (substantially about 180° apart) of the hollow shaft, substantially parallel, and non-coaxial with one another.

Therefore, a prima facie case of obviousness has not been established because (1) the proposed combination of the Hubbell Power Systems bulletin and White fails to teach or suggest all of the limitations of the claimed invention and (2) there is no motivation to combine the references. See MPEP 2143.

The Office Action concedes that the Hubbell Power Systems bulletin fails to teach cableway openings of a light fixture foundation that define respective axes that are laterally offset, substantially parallel to one another or to the longitudinal axis of the trench, and spaced on diametrically opposing sides; as recited in amended independent claims 1, 10, 16 and 19. White does not cure the deficiencies of the Hubbell Power Systems bulletin.

As discussed above with respect to independent claims 1 and 10, White fails to teach cableway openings that are laterally spaced from one another on diametrically opposing sides of the hollow shaft, substantially parallel, and non-coaxial. Therefore, any combination of the Hubbell Power Systems bulletin and White would not disclose or suggest all of the features of the claimed invention.

Additionally, independent claims 16 and 19 each recite the step of inserting cableways into respective openings in the foundation shaft, so that the cableways do not interfere with one another and that the openings be substantially parallel to the longitudinal axis of the trench. In contrast, if the Hubbell Power Systems bulletin foundation was modified to include the openings 14 of White, cableways inserted into those openings 14 would interfere with one another because openings 14 of White are angularly disposed about the shaft 12 and either aligned with or perpendicular to one another. Furthermore, White cannot be interpreted as having two laterally offset and diametrically opposing openings substantially parallel to the longitudinal axis of the trench as claimed by the Applicant.

There is no motivation to combine the Hubbell Power Systems bulletin and White. The only suggested motivation is to prevent wires from interfering with one another. However, this suggestion is found only in Applicant's disclosure. Nothing in either the Hubbell Power Systems bulletin or White suggests preventing the interference of wiring or cabling. Any suggested motivation for making the proposed combination must be found in the prior art, not in Applicant's disclosure. See In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In view of the above, a prima facie case of obviousness has not been established since neither the Hubbell Power Systems bulletin, White nor any combination thereof teaches or suggests all of the limitations of independent claims 1, 10, 16 and 19. Also, no motivation is established to combine the Hubbell Power Systems bulletin and White. Therefore, the rejection under 35 U.S.C. 103 should be withdrawn and the claims allowed.

Dependent claims 2-9 and 11-15 are also allowable for the same reasons as discussed above with respect to independent claims 1 and 10. Moreover, these claims recite additional features distinguishable from the prior art. For example, claim 2 recites that first and second cableways are

received in the first and second openings, claims 4 and 14 recite that the cableways are co-planar, and claims 5 and 14 recite that the cableways are at the same vertical level with respect to the shaft. Also, claim 8 recites that the support member is a base plate having a width larger than the shaft diameter and includes first and second notches for indicating the location of the cableways. Claims 9 and 15 recite an anchor for supporting the shaft and support member. Claim 11 recites that the light support includes a passageway in communication with the passageway of the support member.

Dependent claims 17, 18 and 20 are also allowable for the same reasons discussed above with respect to independent claims 16 and 19. Moreover, these claims recite additional steps not found in the prior art. For example, claims 17 recites that steps of releasably attaching a light support to the support member and electrically connecting the wiring of the cableways with a lighting unit supported by the light support. Also, claim 18 recites the step of excavating the trench so that the width of the trench is smaller than a width of the support member. Claim 20 recites that step of aligning notches of the foundation indicating the relative positions of the first and second openings with the longitudinal axis of the trench prior to excavating the trench.

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In view of the foregoing, claims 1-20 are in allowable condition. Prompt and favorable action is respectfully solicited.

Respectfully submitted,

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Mark S. Bicks  
Mark S. Bicks  
Reg. No. 28,770

Roylance, Abrams, Berdo & Goodman, L.L.P.  
1300 19th Street, N.W., Suite 600  
Washington, D.C. 20036  
Tel.: (202) 659-9076  
Fax: (202) 659-9344